

REMARKS

I. Introduction

Claims 1-3, 5-11, and 13-17 are pending in the application.

Claims 1-3, 5-11, and 13-17 are rejected under 35 U.S.C. § 112, 2nd ¶, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-3, 5-11, and 13-17 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Barrett et al. (U.S. Patent 5,336,261).

II. Discussion

Claims 1 and 11 have been amended to remove the requirement of an index of refraction substantially the same as that of corneal tissue. Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 112, 2nd ¶.

Applicant respectfully requests withdrawal of the rejection of claims 1-3, 5-11, and 13-17 under 35 U.S.C. § 102(b) as being unpatentable over Barrett et al. (U.S. Patent 5,336,261).

Claims 1 and 11 have been amended to require that the body is configured such that when it is implanted in the cornea, it alters the outer surface of the cornea to correct refractive error of the eye.

Barrett clearly teaches away from Applicant's claimed invention. Beginning in column 3, line 66, of the Barrett et al. reference when discussing the problem solved with the Barrett lens, the specification states "[t]here remains, therefore, an important need for intracorneal lenses of a refractive index sufficiently high so as to avoid the need to distort the cornea in order to obtain the desired optical power..." (emphasis added).

Additionally, by utilizing a material for a lens with an index of refraction in the range of 1.36 to 1.39, then Barrett's useful multifocal capability is not obtained. Utilizing an index

of refraction would not create at multifocal capability. That is why Barrett discloses only examples of materials with high or low indices of refraction

Applicant respectfully requests withdrawal of the rejection of claims 1-3, 5-11, and 13-17 under 35 U.S.C. § 102(b) as being unpatentable over Barrett et al. (U.S. Patent 5,336,261).

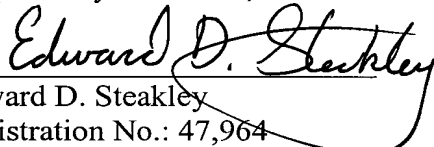
III. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P01709US6 from which the undersigned is authorized to draw.

Dated: July 23, 2004

Respectfully submitted,

By 
Edward D. Steakley

Registration No.: 47,964
FULBRIGHT & JAWORSKI L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
(713) 651-5423
(713) 651-5246 (Fax)
Attorney for Applicant